

1 HANSON BRIDGETT LLP  
KURT A. FRANKLIN, SBN 172715  
2 kfranklin@hansonbridgett.com  
LISA M. POOLEY, SBN 168737  
3 lpooley@hansonbridgett.com  
SAMANTHA WOLFF, SBN 240280  
4 swolff@hansonbridgett.com  
425 Market Street, 26th Floor  
5 San Francisco, California 94105  
Telephone: (415) 777-3200  
6 Facsimile: (415) 541-9366

7 HANSON BRIDGETT LLP  
TYSON M. SHOWER, SBN 190375  
8 tshower@hansonbridgett.com  
LONDON D. BAILEY, SBN 240236  
9 lbailey@hansonbridgett.com  
500 Capitol Mall, Suite 1500  
10 Sacramento, California 95814  
Telephone: (916) 442-3333  
11 Facsimile: (916) 442-2348

12 OTTEN LAW, PC  
VICTOR OTTEN, SBN 165800  
13 vic@ottenlawpc.com  
KAVITA TEKCHANDANI, SBN 234873  
14 kavita@ottenlawpc.com  
3620 Pacific Coast Highway, #100  
15 Torrance, California 90505  
Telephone: (310) 378-8533  
16 Facsimile: (310) 347-4225

17 Attorneys for Plaintiffs  
CORY SPENCER, DIANA MILENA  
18 REED, and COASTAL PROTECTION  
RANGERS, INC.  
19

20 **UNITED STATES DISTRICT COURT**  
21 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**  
22

23 CORY SPENCER, an individual;  
24 DIANA MILENA REED, an  
individual; and COASTAL  
25 PROTECTION RANGERS, INC., a  
26 California non-profit public benefit  
corporation,

27 Plaintiffs,  
28

CASE NO. 2:16-cv-02129-SJO (RAOx)  
**DECLARATION OF SAMANTHA D.  
WOLFF IN SUPPORT OF  
PLAINTIFFS' MOTION FOR  
MONETARY SANCTIONS AGAINST  
DEFENDANTS CHARLIE FERRARA,  
FRANK FERRARA AND THEIR  
COUNSEL OF RECORD BREMER  
WHYTE BROWN & O'MEARA**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

v.

LUNADA BAY BOYS; THE INDIVIDUAL MEMBERS OF THE LUNADA BAY BOYS, including but not limited to SANG LEE, BRANT BLAKEMAN, ALAN JOHNSTON AKA JALIAN JOHNSTON, MICHAEL RAE PAPAYANS, ANGELO FERRARA, FRANK FERRARA, CHARLIE FERRARA, and N. F.; CITY OF PALOS VERDES ESTATES; CHIEF OF POLICE JEFF KEPLEY, in his representative capacity; and DOES 1-10,

Defendants.

*(Filed concurrently with Notice of Motion and Motion; Memorandum of Points and Authorities, and [Proposed] Order)*

Judge: Hon. Rozella A. Oliver  
Date: August 23, 2017  
Time: 10:00 a.m.  
Crtrm.: Telephonic

Complaint Filed: March 29, 2016  
Trial Date: November 7, 2017

I, Samantha D. Wolff, declare as follows:

1. I am a Partner with the law firm Hanson Bridgett LLP, counsel of record in this matter for Plaintiffs Cory Spencer, Diana Milena Reed, and the Coastal Protection Rangers, Inc. ("Plaintiffs"). This declaration describes factual circumstances that support Plaintiffs' Motion for Monetary Sanctions against Defendants Charlie Ferrara and Frank Ferrara and their counsel of record, Bremer Whyte Brown and O'Meara. I have personal knowledge of the matters set forth in this declaration and could and would competently testify to them. All of the matters stated here are known to me personally, unless stated on information and belief; and with regard to those statements, I am informed and reasonably believe them to be true.

2. Although Charlie and Frank Ferrara were not served with the Complaint until on or around July 29, 2016, I believe at least Frank Ferrara was aware of this action well before he was served. See Docket No. 115. He was quoted in a Daily Breeze article related to this matter, authored by Megan Barnes, "Alleged

1 Lunada Bay Boy named in lawsuit says surf gang doesn't exist," published on April  
2 7, 2016. I downloaded this article from the Daily Breeze's website at  
3 [http://www.dailybreeze.com/lifestyle/20160407/alleged-lunada-bay-boy-named-in-](http://www.dailybreeze.com/lifestyle/20160407/alleged-lunada-bay-boy-named-in-lawsuit-says-surf-gang-doesnt-exist&template=printart)  
4 [lawsuit-says-surf-gang-doesnt-exist&template=printart](http://www.dailybreeze.com/lifestyle/20160407/alleged-lunada-bay-boy-named-in-lawsuit-says-surf-gang-doesnt-exist&template=printart) and a true and correct copy  
5 of this article is attached as **Exhibit 1**.

6 3. On November 16, 2016, Plaintiff Spencer propounded requests for  
7 production of documents on Charlie and Frank Ferrara. Among other items, the  
8 requests sought copies of Charlie and Frank Ferrara's cell phone bills from January  
9 1, 2013 to present (Request 40), text messages with surfers who regularly surf  
10 Lunada Bay (Request 5), and text messages or records of phone calls with a co-  
11 defendant (Request 7). A true and correct copy of Plaintiffs' document requests are  
12 attached as **Exhibits 2** (Requests to Charlie Ferrara) and **3** (Requests to Frank  
13 Ferrara).

14 4. Defendants Charlie and Frank Ferrara served their responses to Plaintiff  
15 Spencer's document requests on December 19, 2016. In their responses,  
16 Defendants' counsel attested to the fact that Defendants had no responsive text  
17 messages or records of phone calls and asserted that Plaintiffs' request for their cell  
18 phone bills was too burdensome. Not a single document was produced in response  
19 to Plaintiffs' 46 document requests. A true and correct copy of Defendants'  
20 responses to Plaintiffs' document requests are attached as **Exhibits 4** (responses  
21 from Charlie Ferrara) and **5** (responses from Frank Ferrara).

22 5. Defendant Sang Lee produced a privilege log in response to similar  
23 document requests. His privilege log evidences numerous communications  
24 (including text messages and phone calls) between and among Defendants Charlie  
25 Ferrara, Frank Ferrara, and Sang Lee (see pages 4, 13, 14). A true and correct copy  
26 of Sang Lee's privilege log is attached as **Exhibit 6**.

27 6. Beginning on January 24, 2017, I began meeting and conferring with  
28 counsel for Defendants regarding Defendants' failure to produce any responsive

1 documents. I sent an email to Laura Bell on January 24, 2017, explaining the  
2 importance of Sang Lee's privilege log and asking whether Defendants would  
3 produce copies of Charlie and Frank Ferrara's texts, emails, and phone records. A  
4 true and correct copy of this email is attached as **Exhibit 7**.

5 7. On February 1, 2017, I corresponded again with counsel for Defendants  
6 and asked whether her clients would agree to produce their call logs and text  
7 messages. A true and correct copy of this email is attached as **Exhibit 8**.

8 8. One week later, on February 8, 2017, I again asked Defendants' counsel  
9 whether her clients would agree to produce their call logs and text messages. A true  
10 and correct copy of this email is attached as **Exhibit 9**.

11 9. On February 9, 2017, Defendants' counsel emailed all counsel in this  
12 matter to advise that one of the attorneys at Bremer Whyte was no longer with their  
13 office. The following day, on February 10, 2017, I responded and asked whether  
14 Defendants intended to produce their cell phone call logs and text messages or  
15 whether Plaintiffs needed to seek assistance from the court. A true and correct copy  
16 of my February 10, 2017 email is attached as **Exhibit 10**.

17 10. Weeks later, on March 1, 2017, Defendants' counsel indicated that she  
18 was "still working on getting the information from my client regarding their cell  
19 phones." A true and correct copy of this March 1, 2017 email is attached as **Exhibit**  
20 **11**.

21 11. Having never received a response from Defendants' counsel, on April  
22 14, 2017, I emailed Defendants' counsel and asked for their availability for a call  
23 with the Court to discuss Defendants' failure to respond to interrogatories as well as  
24 their refusal to produce copies of their phone bills and text messages. A true and  
25 correct copy of this April 14, 2017 email is attached as **Exhibit 12**.

26 12. Counsel for Defendants, Ms. Bacon, responded on April 17, 2017. Ms.  
27 Bacon asserted that she was new to the case and was unaware of all prior efforts to  
28 obtain this discovery and proclaimed that Plaintiffs had failed to "meet and confer in

1 good faith to resolve this issue." Ms. Bacon further claimed that she did not have  
2 possession of Sang Lee's privilege log and was unaware of which document requests  
3 I was referring to. I responded later that same day and explained that while she and  
4 Ms. Hurley may be new to the case their office was not. I further explained that I  
5 corresponded with their predecessors four or five times since January but never  
6 received an answer. I agreed discuss the matter by phone in the hopes of finally  
7 achieving resolution. Additionally, I provided courtesy copies of Defendant Lee's  
8 privilege log and discovery requests. A true and correct copy of this email exchange  
9 is attached as **Exhibit 13**.

10 13. On April 21, 2017, I spoke with Tiffany Bacon, counsel for  
11 Defendants. We discussed several outstanding discovery issues, including when  
12 Plaintiffs could expect to receive Defendants' responsive documents. I indicated  
13 that Plaintiffs needed her client's documents within the next couple of weeks. Ms.  
14 Bacon responded during the call that it would likely take longer than two weeks but  
15 that Defendants' counsel was "working on it." Ms. Bacon summarized our  
16 discussion in an April 26, 2017 email, though she neglected to include our  
17 discussion pertaining to her clients' document production in her summary.  
18 Accordingly, I responded on May 1, 2017, to remind her of our discussion. A true  
19 and correct copy of my May 1, 2017 email is attached as **Exhibit 14**.

20 14. Plaintiffs never heard anything further from Defendants' counsel and  
21 so, on June 27, 2017, I sent a letter to counsel for Defendants asking that they make  
22 themselves available for a telephonic meet and confer in advance of Plaintiffs'  
23 anticipated discovery motion. A true and correct copy of my June 27, 2017 letter is  
24 attached as **Exhibit 15**.

25 15. I spoke with Ms. Bacon on July 3, 2017. During our telephonic  
26 discussion, Ms. Bacon stated her clients' cell phone carrier had not been cooperative  
27 and that she would see if her clients could obtain copies of their cell phone bills  
28 online. Based on this statement, I understood that her clients had not yet attempted

1 to do so. I also asked whether Defendants' cell phones had been imaged. Ms.  
2 Bacon stated that she did not know how imaging is performed or how the process  
3 would work. Based on this response, I understood that Defendants' counsel had not  
4 yet initiated the process to have their clients' phones imaged. I explained that  
5 Plaintiffs would expect Defendants to produce copies of relevant text messages, to  
6 which Ms. Bacon responded that she was not sure if that information still existed.  
7 At the conclusion of the call, Ms. Bacon said that she would look into obtaining this  
8 information and beginning the process and would provide me with an update  
9 regarding the status of any anticipated production within the week.

10 16. Four days later, on July 7, 2017, I deposed Defendant Charlie Ferrara.  
11 Charlie Ferrara testified that he had not taken steps to preserve his data. He further  
12 declared that he "ha[d]n't tried very hard" to obtain his cell phone bills. A true and  
13 correct copy of relevant excerpts from Charlie Ferrara's deposition is attached as  
14 **Exhibit 16.**

15 17. On July 10, 2017, having received no responsive documents or follow  
16 up from Defendants' counsel, I notified Ms. Bacon that Plaintiffs would seek relief  
17 from the Court. Defendants' counsel responded by stating that "attempts have been  
18 made to obtain records from our clients' phone company with no success to date"  
19 and that Defendants' counsel "would inquire into imaging the data on our clients'  
20 cell phones, which we still intend on doing." A true and correct copy of this email  
21 exchange is attached as **Exhibit 17.**

22 18. The following day, on July 11, 2017, I wrote to Ms. Bacon and  
23 explained that Plaintiffs could no longer wait for Defendants' counsel to "inquire"  
24 into imaging their clients' cell phones. I also explained that Plaintiffs were  
25 "concerned that because [Defendants' counsel's] office has waited so long to image  
26 the phones, a significant amount of evidence will be unavailable." A true and  
27 correct copy of this email is attached as **Exhibit 18.**

28 19. The next day, July 12, 2017, I spoke with counsel for Defendants, Ms.

1 Bacon, to discuss her clients' anticipated motions for summary judgment. Ms.  
2 Bacon explained the basis for their motion: that there is no evidence that Charlie or  
3 Frank Ferrara were involved with anything that happened to the plaintiffs. I  
4 explained that, to the extent there is no evidence, it is because her clients have  
5 withheld evidence and that Plaintiffs would seek relief under Federal Rule 56(d).  
6 Ms. Bacon followed our call with an email on the same date. A true and correct  
7 copy of Ms. Bacon's July 12, 2017 email is attached as **Exhibit 19**.

8         20. On July 13, 2017, this Court held a hearing on Defendants' failure to  
9 produce documents responsive to Plaintiffs' requests. During the hearing, counsel  
10 for Defendants, Tiffany Bacon, admitted that neither of her client's phones had been  
11 imaged at that point. The Court ordered the production of Defendants' text  
12 messages and cell phone bills by 5:00 p.m. on July 17, 2017. *See* Docket No. 267.

13         21. At 5:13 p.m. on July 17, 2017, I received Defendant Frank Ferrara's  
14 document production via email from counsel for Defendants. Upon review of the  
15 production, it became clear that it was deficient in several respects. So on July 18,  
16 2017, I sent a letter to Defendants' counsel identifying the deficiencies as follows:  
17 (1) the production was heavily redacted and no privilege log was provided such that  
18 Plaintiffs were unable to determine whether the information was properly withheld;  
19 (2) the production only contained Frank Ferrara's text messages and cell phone bills;  
20 (3) the production only contained cell phone bills dating back to February 21, 2016  
21 and thus omitted critical information; and (4) the production did not contain any  
22 communications with Sang Lee which had been listed on Defendant Lee's privilege  
23 log. A true and correct copy of my July 18, 2017 letter is attached as **Exhibit 20**.

24         22. Ms. Bacon responded the same day and stated that "Charlie Ferrara's  
25 communications are included in the cell phone bills" and requested a further meet  
26 and confer to discuss the production. A true and correct copy of Ms. Bacon's July  
27 18, 2017 email is attached as **Exhibit 21**.

28         23. On Friday, July 21, 2017, at 5:03 p.m., I received an additional

1 document production from Defendants. This production still did not contain Charlie  
2 Ferrara's cell phone data.

3 24. I spoke with Ms. Bacon on July 24, 2017, and learned that despite Ms.  
4 Bacon's initial assertion that "Charlie Ferrara's communications are included in the  
5 cell phone bills," in fact Defendants' counsel had withheld his cell phone data from  
6 production because it was too voluminous and Defendants' counsel did not have  
7 sufficient time to review it in advance of the Court's July 17, 2017 deadline. I told  
8 Ms. Bacon that Plaintiffs would need to seek immediate relief from the Court. Later  
9 that same day, Defendants Charlie and Frank Ferrara filed motions for summary  
10 judgment, arguing Plaintiffs lacked sufficient evidence to prove their claims.

11 25. On July 25, 2017, Defendants' counsel and I emailed each other to find  
12 a mutually-agreeable time to participate in another telephonic hearing with the Court  
13 regarding Defendants' failure to comply with the Court's July 17, 2017 Order. A  
14 true and correct copy of these July 25, 2017 emails between Ms. Bacon and me is  
15 attached as **Exhibit 22**.

16 26. This Court held another hearing on July 26, 2017, at which time  
17 counsel for Defendants agreed to produce Charlie Ferrara's cell phone data that  
18 same day. Following the hearing, my office ordered a transcript. A true and correct  
19 copy of the transcript from the July 26, 2017 hearing is attached as **Exhibit 23**.

20 27. My firm and our co-counsel at Otten Law, PC, are representing  
21 Plaintiffs in this matter on a *pro bono* basis. Since January, my firm has spent 66.1  
22 hours pursuing production of the requested documents from Defendants Charlie and  
23 Frank Ferrara and their counsel. My billing rate is \$525/hour. Additionally, I was  
24 assisted in the preparation of this motion by an associate in my office, Laurel  
25 O'Connor, whose billing rate is \$425/hour. Attached as **Exhibit 24** is a true and  
26 correct summary chart reflecting all billing entries related to my firm's pursuit of  
27 Charlie and Frank Ferrara's production of cell phone bills and text messages.

28 28. I anticipate devoting an additional three hours to this matter for



1 preparation and attendance at the hearing before this Court on August 23, 2017.

2 29. Efforts pertaining to pursuit of discovery from Charlie and Frank  
3 Ferrara have been appropriately staffed by my firm. I performed the vast majority  
4 of the work but was assisted in the drafting of this motion by an associate, Laurel  
5 O'Connor. Ms. O'Connor's level of experience was commensurate with the tasks  
6 assigned to her. I have been a litigator practicing in the Bay Area for 11 years. Ms.  
7 O'Connor has practiced for nearly 2 years. Copies of my and Ms. O'Connor's  
8 biographical information, as published on the Hanson Bridgett website, are attached  
9 as **Exhibit 25**.

10 30. The hourly rates that were charged for the legal services provided are  
11 the standard rates. As a partner of Hanson Bridgett. I am familiar with the way in  
12 which our firm sets its standard billable rates. Hanson Bridgett operates in a highly  
13 competitive legal environment. It reviews and sets attorney billing rates on an  
14 annual basis, based on the market information available to it, with an effort to set  
15 rates that are equal to or less expensive than other similarly situated, and similarly  
16 experienced law firms operating in the San Francisco Bay Area. Those rates are, in  
17 turn, tested by market forces, where clients choose lawyers based on their  
18 competence, experience and cost-effectiveness. Hourly rates vary from attorney to  
19 attorney based on their level of experience or particular expertise. Based on my  
20 understanding of the market, the rates charged in this matter are reflective of the  
21 market value for litigation attorneys and staff with similar skill and experience in the  
22 San Francisco Bay Area.

23 I declare under penalty of perjury under the laws of the United States of  
24 America that the foregoing is true and correct.

25 Executed on this 14th day of August, 2017, at San Francisco, California.

26  
27  
28

/s/ Samantha Wolff  
Samantha D. Wolff